IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 6982 of 2007()

CRMP.3561/2007 of II ADDL. DISTRICT COURT, PALAKKAD
CRIME NO.29/07 OF EXCISE RANGE OFFICE, OTTAPPALAM, PALAKKAD.

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PETITIONER/2ND ACCUSED:

VIJAYAKUMARAN,
KUNDIL HOUSE, MANISSERY, VANIYAMKULAM VILLAGE,
OTTAPPALAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA,
REP. BY THE EXCISE INSPECTOR, OTTAPPALAM EXCISE RANGE THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6982 OF 2007

Dated this the 19th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. He along with the 1st accused – his wife, faces allegations under the Kerala Abkari Act. The petitioner was allegedly found to keep in his house 10 litres of arrack. His wife was arrested on the spot. The petitioner was not available. The said incident took place on 16/8/07. His wife who was arrested at the spot has subsequently been released on bail, The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and prays that anticipatory bail may be granted to him.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation

reveals that the petitioner was the person principally responsible for keeping the articles in his possession in the house.

4. Having considered all the relevant inputs I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary and normal course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge